

1 RENE L. VALLADARES  
Federal Public Defender  
2 Nevada State Bar No. 11479  
NISHA BROOKS-WHITTINGTON  
3 Assistant Federal Public Defender  
411 E. Bonneville, Ste. 250  
4 Las Vegas, Nevada 89101  
(702) 388-6577/Phone  
5 (702) 388-6261/Fax  
Nisha\_Brooks-Whittington@fd.org  
6 Attorney for Josue Garcia-Rodriguez

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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 JOSUE GARCIA-RODRIGUEZ,  
14 Defendant.

Case No. 2:20-mj-00318-DJA  
**ORDER TO CONTINUE**  
**PRELIMINARY HEARING**  
(Second Request)

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16 IT IS HEREBY STIPULATED AND AGREED, by and between  
17 Nicholas A. Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United  
18 States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal  
19 Public Defender, and Nisha Brooks-Whittington, Assistant Federal Public Defender, counsel  
20 for Josue Garcia-Rodriguez, that the Preliminary Hearing currently scheduled on  
21 August 3, 2020 at 4:00 p.m., be vacated and continued to a date and time convenient to the  
22 Court, but no sooner than sixty (60) days.

23 This Stipulation is entered into for the following reasons:

- 24 1. Defense counsel requires additional time to prepare, investigate, and discuss the  
25 case with Defendant.  
26 2. The defendant is in custody and agrees with the need for the continuance.

1           3.       The parties agree to the continuance.

2           4.       Under Federal Rule of Criminal Procedure 5.1(c), the Court “must hold the  
3 preliminary hearing within a reasonable time, but no later than 14 days after the initial  
4 appearance if the defendant is in custody . . . .”

5           5.       However, under Rule 5.1(d), “[w]ith the defendant’s consent and upon a  
6 showing of good cause—taking into account the public interest in the prompt disposition of  
7 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more times  
8 . . . .”

9           6.       Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny  
10 information or indictment charging an individual with the commission of an offense shall be  
11 filed within thirty days from the date on which such individual was arrested or served with a  
12 summons in connection with such charges.”

13           7.       Defendant is in custody and agrees to the extension of the 14-day deadline  
14 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C. §  
15 3161(b), provided that the information or indictment is filed on or before the date ordered  
16 pursuant to this stipulation.

17           8.       In addition, the parties stipulate and agree that the time between the currently  
18 schedule preliminary hearing and the preliminary hearing date that the parties are asking to be  
19 set 60 days from the current setting, is excludable in computing the time within which the  
20 defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial  
21 Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. §  
22 3161(h)(7)(B)(i) and (iv).

1 This is the second request for a continuance of the Preliminary hearing.

2 DATED this 29th day of July 2020.

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4 RENE L. VALLADARES  
Federal Public Defender

NICHOLAS A. TRUTANICH  
United States Attorney

5  
6 */s/ Nisha Brooks-Whittington*  
By \_\_\_\_\_  
7 NISHA BROOKS-WHITTINGTON  
8 Assistant Federal Public Defender

*/s/ Kimberly M. Frayn*  
By \_\_\_\_\_  
KIMBERLY M. FRAYN  
Assistant United States Attorney

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 JOSUE GARCIA-RODRIGUEZ,

7 Defendant.  
8

Case No. 2:20-mj-00318-DJA

**ORDER**

9  
10 IT IS ORDERED that the preliminary hearing currently scheduled for Monday,  
11 August 3, 2020 at 4:00 p.m., be vacated and continued to 10/5/2020 at the hour of  
12 4:00 pm Ctrm 3A 29th July

13 DATED this \_\_\_\_ day of \_\_\_\_\_ 2020.



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15 \_\_\_\_\_  
16 DANIEL J. ALBREGTS, U.S. Magistrate Judge  
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